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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/964,257	11/04/1997	HITOSHI TERASHIMA	56356	2047
23872	7590	09/02/2008	EXAMINER	
MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227			NGUYEN, MADELEINE ANH VINH	
ART UNIT	PAPER NUMBER			
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

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Ex parte HITOSHI TERASHIMA, KUNIHIKO OHMI,  
SATOSHI ISHIDA, TOMOHISA SANO, HIROSHI YAMAGISHI,  
TAKETOSHI SAWADA, YOSHIKI TSUCHIYAMA, SATOSHI KIRITA,  
HITOSHI YOSHIO, AND TERUNOBU OHUE

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Application 08/964,257  
Technology Center 2600

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Mailed: September 2, 2008

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Before DALE M. SHAW *Chief Appeals Administrator.*  
SHAW, *Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 4, 2008. A review of the

application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

**EXAMINER'S ANSWER**

On December 11, 2007, an Examiner Answer was mailed. In the section entitled Evidence Relied Upon (pg. 3-4) the Examiner did not list all of the evidence relied upon for the rejections of the claims. A review of the file reveals that references to Tajima JP403003030A and Shimizu US 5,663,811 were applied to the statement of rejections in the Grounds of Rejection, paragraph (9) of the Examiner's Answer. Before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the listing the references mentioned in the statement of rejections. See the Manual of Patent Examining Procedure, (MPEP) § 1207.02. Appropriate correction is required.

**INFORMATION DISCLOSURE STATEMENT**

An Information Disclosure Statement (IDS) was filed on May 17, 2004. It is not apparent from the record whether the Examiner considered the statement submitted or notified Appellants regarding why their submission did not meet the criteria set forth in 37 C.F.R. §§ 1.97 and 1.98.

A communication notifying Appellants of the Primary Examiner's decision is required.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 citing all references relied on in the rejection of the claims on appeal; and
- 2) consider the IDS filed May 17, 2004, with appropriate notification to Appellants regarding the Primary Examiner's decision;
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

kis

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